IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE 2ND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 28876 of 1995

Between:

1. Munigala Balaiah s/o Rajaiha,
   Aged about 50 years, occupation: Agriculture
2. Munigala Komaraiah S/oBalaiah,
   Aged 30 years, occupation : Agriculture
3. Munigala Narasaiah s/o Balaiah
   Aged about 27 years, occupation : Agriculture

(All are residents of Veldi Village, Malakondur Mandal, Karimnagar District)

..... PETITIONER

AND

1. The District Collector, Karimnagar at Karimnagar
2. The Revenue Divisional Officer, Karimnagar
3. The Executive Engineer (Irrigation), LMD at Karimnagar

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents herein who are making the hectic efforts to make a breach to the canal i.e., DBM-6(3LA) of Kakatiya Canal which is passing through the lands of the petitioners to fill the Kocheruvu Tank as illegal, arbitrary and violative of Articles 300(A) 31A and 21 of Constitution of India and to direct the respondents herein not to take any steps to break the canal DBM-6 (3LA) of Kakatiya canal which is passing through the lands of the petitioners in Survey No.790 of Veldi Village, Malakondur Mandal, Karimnagar District and pas such other order or

orders in the interests of justice.

Counsel for the Petitioners: MR.Y.RAMA RAO

Counsel for the Respondent No.: GP FOR IRRIGATION & COMM AREA DEV.

ORAL ORDER:

The petitioners herein pray for a direction to the respondents not break the canal DBM-6(3LA) of Kakatiya Canal which passes through the lands of the petitioners in Survey No.790 of Veldi Village, Malakondu Mandal, Karimnagar District.

The case of the petitioners is that they are owners of land in an extent of Ac.4-00 in Sy.No.790 of Veldi Village, Malakondu Mandal, Karimnagar District and they are eking out their livelihood by cultivating the said land. It is stated that sub-canal of Kakatiya CanalDBM-6(3LA) passes through their land which was already acquired and compensation thereof has been paid. There is a tank known as Kocheruvu on the Eastern side of the lands of the petitioners which caters to the needs of the Ayakatdars. Certain people of the village made representations to the R.D.O. to break the canal so as to divert the water to the tank. Apprehending that the respondents may take steps to break the canal and in that even their lands would be totally submerged, the present writ petition is filed.

Counter affidavit is filed by the 3rd respondent inter alia stating that there is no proposal to breach the Canal 3 LA-DBM-6 as apprehended by the petitioners. The relevant portion of the counter reads thus:

Further, it is to be stated that if breach occurs the water of canal will certainly pass through the portion of Survey No.790, which belongs to the petitioners. The above said landed portions in question is in between the road from Veldhi (village) to Ootur (village) and Branch of R1 of 3 LA of D.B.M-6 which is shown in hatching in the plan attached. Further, I am to inform that the Irrigation department is not having any

proposals to breach the canal 3 LA-D.B.M-6 feeding the tank of Kocheroo of Veldhi (village) of Manakondur Mandal and this department is not at all concerned with this case.

Since it is stated in the counter affidavit that there are no proposals to breach the Canal 3 LA-D.B.M.6, it is clear that the writ petition is filed only on apprehension. Therefore, recording the statement of the respondent the writ petition is dismissed. No costs.

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2-9-2004

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To

1.The District Collector, Karimnagar at Karimnagar
2.The Revenue Divisional Officer, Karimnagar
3.The Executive Engineer (Irrigation), LMD at Karimnagar

4. Two C.Cs. to G.P. for Irrigation and Command Area Development,
   High Court Building (O.U.T)
5. Two C.D. copies